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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. **Jose CERVANTES-Vargas,** Defendant	)	Magistrate Docket No. '08 MJ 0091 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **January 12, 2008** within the Southern District of California, defendant, **Jose CERVANTES-Vargas,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico,** was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **14th** DAY OF **January 2008**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Jose CERVANTES-Vargas

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On January 12, 2008, Senior Patrol Agent V. S. Arguello, was performing line watch duties in an area known as "Zone 1". "Zone 1" is approximately five miles west of the San Ysidro, California Port of Entry and 100 yards north of the U.S./Mexico International Boundary Fence. Undocumented aliens attempting to further their illegal entry into the United States frequently use this area. At approximately 9:00 AM, National Guard West High Point observers notified Agent Arguello via service radio of two individuals running northbound from the U.S./Mexico International Boundary Fence. Agent Arguello arrived in the area and observed two individuals attempting to conceal themselves in dense brush. Agent Arguello identified himself as a United States Border Patrol Agent and performed an immigration inspection. Both subjects, including one later identified as the defendant, **Jose CERVANTES-Vargas** admitted to being citizens and nationals of Mexico, illegally present in the United States without any immigration documents that would allow them to enter or remain legally. The defendant stated that he and the other individual had entered the United States illegally several minutes earlier by jumping over the U.S./Mexico International Boundary Fence. Subsequently, the defendant was arrested and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **October 17, 2007** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights and stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted to being a citizen and national of Mexico, and that he is present without immigration documents that would allow him to enter or remain in the United States legally.

Executed on January 13, 2008 at 9:30 a.m.

Terri L. Dimolios
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **1** page, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **January 12, 2008,** in violation of Title **8**, United States Code, Section **1326**.

Nita L. Stormes
United States Magistrate Judge

1-13-08 @ 12:00pm
Date/Time